

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

RESIDENTIAL CAPITAL, LLC, *et al.*,

Debtors.

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Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

**ORDER DENYING DISCOVERY MOTIONS FILED BY
PHILIP AND SYLVIA EMIABATA**

The ResCap Borrower Claims Trust (the “Trust”) filed its eighty-second omnibus objection to claims (the “Objection,” ECF Doc. #8042). Two of the claims subject to the Objection are Claim Numbers 3910 and 4085 (the “Claims”) filed by Philip and Sylvia Emiabata (the “Emiabatas”). After the Objection was originally filed in January 2015, the Emiabatas did not submit a response and, on April 1, 2015, the Court sustained the Objection to the Emiabatas’ Claims. (*See* ECF Doc. # 8400.) Subsequently, the Emiabatas advised the Court that the Objection was served at the incorrect address and they therefore did not receive proper notice. (*See* ECF Doc. # 8563.) The Court entered an order vacating the prior order sustaining the Objection as to the Emiabatas’ Claims and directed that the Trust re-serve the Objection to be considered at a later hearing date. (*Id.*) The Trust noticed the Objection to the Claims for a hearing on June 23, 2015 (*see* ECF doc. # 8568), re-served the Emiabatas, and the Emiabatas thereafter filed a timely opposition to the Objection (the “Opposition,” ECF Doc. # 8726). The Trust thereafter filed a reply in support of its original Objection, which also included supplemental objections to the Claims (the “Supplemental Objection,” ECF Doc. # 8810). A hearing on the Objection and Supplemental Objection is scheduled for July 30, 2015 at 10:00 a.m. (*See* ECF Doc. # 8774.)

On June 26, 2015, the Emiabatas filed two motions: (1) a motion to compel discovery from the Trust (the “Motion to Compel,” ECF doc. # 8821); and (2) a motion to extend time to complete such discovery (the “Motion to Extend,” ECF Doc. # 8822; together with the Motion to Compel, the “Motions”).

Having reviewed the Emiabatas’ Motions, the Court hereby **DENIES** the relief requested in each of the Motions. Currently, the Objection and Supplemental Objection to the Emiabatas’ Claims raise legal issues challenging the sufficiency of the pleading of such Claims. Claimants, such as the Emiabatas, are not entitled to discovery at this stage of the pleadings. The Motion to Compel is **DENIED without prejudice** as premature and the Motion to Extend is therefore **DENIED** as moot.

The hearing on the Objection and Supplemental Objection will go forward as scheduled on July 30, 2015 at 10:00 a.m. (Prevailing Eastern Time).

IT IS SO ORDERED.

Dated: July 8, 2015
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge